

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,872

IN THE MATTER OF:

Served June 20, 2014

Formal Complaint of METROPOLITAN	)	Case No. FC-2013-01
WASHINGTON COUNCIL, AFL-CIO, et	)	
al., Against WASHINGTON SHUTTLE,	)	
INC., WMATC No. 369, and EXECUCAR,	)	
and EXPRESS	)	

This matter is before the Commission on the complaint of the Metropolitan Washington Council of the AFL-CIO and certain individuals against Washington Shuttle, Inc., WMATC Carrier No. 369, and others.

Preliminarily, we note that the complaint was filed on October 8, 2013, and served on the named respondents on October 9, 2013. Washington Shuttle filed a "Response" on October 23, 2013. The response faulted complainants for not supporting the factual allegations in the complaint with affidavits. Complainants in turn responded on November 20, 2013, with a motion for leave to file an amended complaint with supplemental affidavits. An amended complaint and four affidavits were attached to the motion. Washington Shuttle submitted an "Answer" to the amended complaint on December 6, 2013. The Answer contains detailed responses to the allegations in the amended complaint and incorporates the October 23 response to the original complaint.

There is no express provision in the Commission's rules for filing an amended complaint. However, inasmuch as Washington Shuttle has not objected to the filing of an amended complaint and has answered same, and it appearing that the interests of justice and administrative economy will be advanced by allowing amendment, the motion shall be granted, and the amended complaint and answer shall be accepted.

**I. STATUTORY FRAMEWORK**

The Washington Metropolitan Area Transit Commission (Commission or WMATC) licenses and regulates private-sector, for-hire motor carriers transporting passengers between points in the Washington Metropolitan Area pursuant to the Washington Metropolitan Area Transit Regulation Compact (Compact).<sup>1</sup>

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<sup>1</sup> Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), *amended by* Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III).

Article XI, Section 1, of the Compact provides that: "This Act shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District."<sup>2</sup>

Article XI, Section 5(b), provides that "[e]ach authorized carrier shall observe and enforce Commission regulations established under this Act."

Article XIII, Section 1(a), stipulates that: "A person may file a written complaint with the Commission regarding anything done or omitted by a person in violation of a provision of this Act, or in violation of a requirement established under it." "If the respondent does not satisfy the complaint and the facts suggest that there are reasonable grounds for an investigation, the Commission shall investigate the matter."<sup>3</sup> "If the Commission determines that a complaint does not state facts which warrant action, the Commission may dismiss the complaint without hearing."<sup>4</sup>

## **II. NAMED RESPONDENTS**

The amended complaint names three respondents as follows:

Washington Shuttle, Inc.  
2605 S Clark St.  
Arlington, VA 22202

ExecuCar  
2605 S Clark St.  
Arlington, VA 22202

And

Express  
2605 S Clark St.  
Arlington, VA 22202

As noted above, a complaint must be lodged against "a person". Under WMATC Rule No. 2-03:

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<sup>2</sup> The Metropolitan District includes: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports. Compact, tit. I, art. I.

<sup>3</sup> Compact, tit. II, art. XIII, § 1(b)(i).

<sup>4</sup> Compact, tit. II, art. XIII, § 1(b)(ii).

"Person" means any individual, firm, partnership, corporation, company, association, joint stock association or joint venture; and includes any trustee, receiver, assignee, or personal representative thereof; and shall also include any municipality, county, or other political subdivision of the State of Maryland, Commonwealth of Virginia, and District of Columbia.

The above terms connote legally recognized entities. The amended complaint, on the other hand, variously describes "ExecuCar" and "Express" as "affiliate[s]" of Washington Shuttle, "service[s]", and "trade name[s]". Only affiliate comes close to describing a separately recognizable "person", in and of itself.

In any event, according to the Virginia State Corporation Commission, ExecuCar and Express, which the amended complaint alleges are located in Arlington, Virginia, are merely fictitious names belonging to Washington Shuttle, Inc., a corporation, and thus, within the meaning of Commission Rule No. 2-03, a person. This accords with WMATC records and is consistent with the amended complaint listing all three "respondents" as residing at the same Virginia address. In Maryland, the locus of events alleged in the amended complaint, the Maryland Department of Assessments and Taxation (MDAT) likewise lists ExecuCar and Express as trade names owned by Washington Shuttle, Inc.<sup>5</sup>

We find that for the purpose of deciding the amended complaint before us, ExecuCar and Express of Arlington, VA, are trade names owned by respondent Washington Shuttle, Inc., not separately identifiable persons within the meaning of the Compact and therefore not recognizable as respondents separate from Washington Shuttle, Inc., the only other respondent named in the amended complaint.

### **III. ALLEGED OFFENSES AND FINDINGS**

The amended complaint alleges violations of the Compact, Article XI, Sections 6(a) & 18; of WMATC Regulation Nos. 55-02, 61, 63-01, and 63-04; and of the Compact and Commission rules, generally. The amended complaint further alleges that these violations occurred in 2013.

Based on these alleged violations, the amended complaint requests that the Commission assess civil forfeitures against ExecuCar and Express of Arlington, VA, prohibit ExecuCar and Express of Arlington, VA, from operating in the Metropolitan District, prohibit Washington Shuttle from conducting operations under those names, and grant such other and further relief as the Commission deems just and proper.

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<sup>5</sup> According to MDAT, the trade name ExecuCar also is owned by Shuttle Express, Inc., of Scottsdale, AZ, and the trade name Express also is owned by National Harbor Transportation Services, LLC, of Baltimore, MD. Neither Shuttle Express, Inc., nor National Harbor Transportation Services, LLC, is named as a respondent in the complaint.

**A. Compact, Article XI, Section 6(a)**

The amended complaint alleges that "respondents" ExecuCar and Express of Arlington, VA, "violated tit. II. Art. XI, §6(a) of the Compact by engaging in transportation subject to the Compact without having in force a Certificate of Authority issued by the Commission."<sup>6</sup>

Article XI, Section 6(a), of the Compact provides that "[a] person may not engage in transportation subject to this Act unless there is in force a 'Certificate of Authority' issued by the Commission authorizing the person to engage in that transportation."

Inasmuch as ExecuCar and Express of Arlington, VA, are not persons but merely trade names used by respondent Washington Shuttle, Inc., and considering that Washington Shuttle, Inc., held WMATC Certificate No. 369 at all times pertinent to the amended complaint, we find that this allegation is without merit.

**B. Compact, Article XI, Section 18**

The amended complaint alleges that "respondents" ExecuCar and Express of Arlington, VA, "violated the Commission's rules and the Compact by engaging in taxicab operations"<sup>7</sup> and "violated tit. II, Art. XI, §18 of the Compact by charging a rate for transportation by taxicab other than the rate approved by the Commission."<sup>8</sup>

"[T]axicabs and other vehicles that perform a bona fide taxicab service" are excluded from WMATC's licensing jurisdiction by Article XI, Section 3(f), of the Compact by reference to Article XI, Section 1(b). "This Commission has no authority to prescribe rules and regulations as to who shall be permitted to provide taxicab service, or to the condition of the vehicle in which the taxicab service is rendered."<sup>9</sup> WMATC's jurisdiction over taxicabs and other vehicles that perform a bona fide taxicab service is limited to prescribing and enforcing interstate rates, charges, regulations, and minimum insurance requirements.<sup>10</sup>

The taxicab allegations in the amended complaint are based on "sworn declarations from four individuals regarding the operation of Execucar and Express vehicles as taxicabs at the Gaylord Hotel."<sup>11</sup> The affidavits, however, are problematic and do not support the allegations in the amended complaint.

The affidavits do little more than describe the service requests conveyed by affiants to Gaylord Hotel employees. One affiant

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<sup>6</sup> Amended Complaint at 10.

<sup>7</sup> Amended Complaint at 10.

<sup>8</sup> Amended Complaint at 10-11.

<sup>9</sup> *In re Interstate Taxicab Fares*, No. 265, Order No. 1439 (June 20, 1975).

<sup>10</sup> See Compact, tit. II, art. XI, §§ 1(b), 3(f), & 18.

<sup>11</sup> Motion for Leave to File First Amended Formal Complaint at 1.

alleges that he approached the transportation desk at the Gaylord and requested a taxi.<sup>12</sup> Another affiant alleges that she approached a Gaylord bell hop and requested a taxi.<sup>13</sup> The other two affiants allege that they approached a Gaylord bell hop and merely requested transportation service.<sup>14</sup> We do not see how these statements, without more, establish that the service actually provided was in fact taxi service.<sup>15</sup>

According to Article XI, Section 4(d), of the Compact: “‘Taxicab’ means a motor vehicle for hire (other than a vehicle operated under a Certificate of Authority issued by the Commission) having a seating capacity of 9 persons or less, including the driver, used to accept or solicit passengers along the public streets for transportation.” (Emphasis added). In this case, accepting for the purpose of this analysis the allegation that the transportation service described in the four affidavits was provided by Washington Shuttle, it appears that the service in question was rendered under WMATC Certificate No. 369.

Indeed, Washington Shuttle contends that it “has been providing private sedan services under a WMATC tariff since 2010. The [Washington Shuttle] General Tariffs # 8 and 9 clearly state that it is providing sedan services at the Gaylord Hotel/National Harbor, and elsewhere, both in its own name and under the Execu-Car name.”<sup>16</sup>

Copies of receipts supporting two of the affidavits identify the service provider as ExecuCar and indicate that one affiant was transported in a sedan, the other in an SUV.<sup>17</sup> At the time of these trips, respondent Washington Shuttle had ExecuCar rates on file with the Commission that covered transportation in sedans and SUVs between all points “within WMATC jurisdiction.”<sup>18</sup>

The other two affidavits allege that service for those affiants was provided in sedans but not under the ExecuCar trade name.<sup>19</sup> At the time of these trips, respondent Washington Shuttle had non-ExecuCar

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<sup>12</sup> Declaration of Brock Meade.

<sup>13</sup> Declaration of Camille West-Eversley.

<sup>14</sup> Declarations of Josh Goldstein & Sean Savett.

<sup>15</sup> Under WMATC Rule No. 4-05: “The original of each pleading, document, or other paper filed, including amendments, shall be signed in ink by the party in interest, or by the party's attorney, and shall show the telephone number and postal address of the person signing.” The affidavits attached to the amended complaint are not signed in ink; rather, they appear to be copies of affidavits signed in ink. And none of the affidavits discloses the affiant's telephone number and postal address.

<sup>16</sup> Response of Washington Shuttle, Inc. at 4.

<sup>17</sup> Declarations of Brock Meade & Josh Goldstein.

<sup>18</sup> Washington Shuttle General Tariff No. GT-9, available at [www.wmatc.gov](http://www.wmatc.gov).

<sup>19</sup> Declarations of Camille West-Eversley & Sean Savett.

sedan rates on file with the Commission that covered transportation in sedans "to and from the Gaylord Hotel/National Harbor".<sup>20</sup>

Only one of the alleged trips was priced properly under Washington Shuttle's WMATC tariff, as noted below, but that does not lead to the conclusion that Washington Shuttle therefore was engaged in "taxicab operations". On the contrary, there is no allegation that the vehicles in question were licensed as taxicabs or that they displayed taxicab markings or were held out as taxicabs by Washington Shuttle or its drivers, and there is no allegation that Washington Shuttle used the vehicles in question to "accept or solicit passengers along the public streets." Furthermore, the flat fares alleged to have been charged on the trips in question are inconsistent with the definition of "bona fide taxicab service" under WMATC Regulation No. 51-09:

Other vehicles that perform a bona fide taxicab service means vehicles other than taxicabs used to perform a service that is:

(a) transportation intended in good faith to be provided only between points selected at will by the person or persons hiring the vehicle in which such transportation is provided;

(b) conducted in a vehicle subject to the exclusive use of the passenger or single party of passengers hiring the vehicle for the entire time such vehicle is under hire;

(c) priced at rates based on the duration and/or distance of the transportation rendered;

(d) conducted in a vehicle engaged solely in rendering or performing transportation as described in subparagraphs (a), (b), and (c) above; and

(e) conducted in a vehicle having a seating capacity of eight passengers or less in addition to the driver.

"We strictly construe the meaning of ['bona fide taxicab service'] because such service is excluded from the Compact's certification requirements."<sup>21</sup> "[O]ther vehicles that perform a bona fide taxicab service are quite simply those vehicles which 'behave like taxicabs but are not taxicabs.'"<sup>22</sup>

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<sup>20</sup> Washington Shuttle General Tariff No. GT-9.

<sup>21</sup> *In re Transcom, Inc.*, No. AP-05-113, Order No. 9907 at 2 (Sept. 13, 2006); *In re Seth, Inc., t/a Kids Kab*, No. AP-93-40, Order No. 4243 at 3 (Feb. 9, 1994).

<sup>22</sup> Order No. 9907 at 2 (quoting *In re O. Oluokun, Inc., t/a Montgomery County Limo*, No. MP-93-43, Order No. 4225 at 2 (Dec. 16, 1993) (quoting *In re Title II, Art. XII, § 1(c) of the Compact*, No. MP-83-01, Order No. 2559 at 8 (May 24, 1984))).

[A] taxicab charges rates based on the duration and/or distance of the transportation rendered. Put another way, *the charge is not a flat rate for service where the operator of the vehicle bears the risk of unforeseen delays or deviations from the most direct route. Instead, the charge for service rendered bears some relation or proportion to the factors of time and/or distance so that the risks of unforeseen delays and/or deviations fall on those who hire the vehicle.*<sup>23</sup>

An examination of the four supporting affidavits reveals that all four affiants were charged flat fares. One affidavit says the affiant was "charged a \$35.00 flat fee."<sup>24</sup> Another affidavit says the affiant paid "a flat fee of \$35.00."<sup>25</sup> A third affidavit says the affiant paid a "\$30.00 fee" at the hotel transportation desk in advance.<sup>26</sup> The remaining affidavit says that the driver told the affiant in advance that the "fare would be \$55.00," and affiant paid that fare after arriving at her destination.<sup>27</sup> "Flat fares -- fares that vary according to the selected destination but not according to the selected route or according to the amount of time required to traverse the selected route -- do not meet the duration and/or distance test of Regulation No. 51-09."<sup>28</sup>

Based on the existence of WMATC Certificate No. 369, Washington Shuttle's General Tariff No. GT-9, and the charging of flat fares on the trips in question, we find that the transportation described in the four affidavits may be appropriately characterized as service conducted under a WMATC certificate of authority, not taxicab operations, even though not all of the alleged service was properly priced.

Based on the foregoing, we find that the amended complaint does not state facts sufficient to warrant further investigation of the allegation of violation of Article XI, Section 18, of the Compact and associated violation of Commission Rules.

#### **C. WMATC Regulation No. 55-02**

The amended complaint alleges that ExecuCar and Express of Arlington, VA, "violated Section 55-02 of the Commission's Regulations by demanding and collecting compensation for transportation that is not specified in any currently effective [ExecuCar/Express] tariff."<sup>29</sup>

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<sup>23</sup> Order No. 2559 at 9 (emphasis added).

<sup>24</sup> Declaration of Josh Goldstein.

<sup>25</sup> Declaration of Sean Savett.

<sup>26</sup> Declaration of Brock Meade.

<sup>27</sup> Declaration of Camille West-Eversley.

<sup>28</sup> Order No. 9907 at 3; *In re Washington Exec. Sedan, Inc., & Global Express Limo. Serv., Inc.*, No. MP-02-03, Order No. 6772 (Aug. 13, 2002) (citing Order No. 4225 at 2).

<sup>29</sup> Amended Complaint at 10.

Under WMATC Regulation No. 55-02, "[n]o carrier shall demand, receive, or collect any compensation for any transportation or transportation-related service, except such compensation as is specified in its currently effective tariff for the transportation or transportation-related service provided."

The copies of affidavits and supporting copies of ExecuCar receipts, plus the supporting vehicle photos showing (1) license plate numbers for two vehicles that are included in Washington Shuttle's current WMATC vehicle list, (2) a fleet number for a third vehicle in Washington Shuttle's current WMATC vehicle list, and (3) an "Express" marking on a fourth vehicle, would appear to tie the trips in question to Washington Shuttle.

Based on Washington Shuttle's General Tariff No. GT-9, the fare for three of the alleged trips should have been calculated according to an hourly rate but were not. The ExecuCar sedan trip to Marlow Heights<sup>30</sup> should have been calculated at the rate of \$75 per hour instead of at a flat fare of \$30. The Express sedan trip to New Carrollton<sup>31</sup> should have been calculated at the rate of \$59 per hour with a two-hour minimum instead of at a flat fare of \$55. The ExecuCar SUV trip to Reagan National<sup>32</sup> should have been calculated at the rate of \$90 per hour instead of at a flat fare of \$35. Only the \$35 non-ExecuCar sedan trip to Reagan National<sup>33</sup> was properly priced.<sup>34</sup>

Complainants shall have 15 days from the date of this order to produce the originals of the affidavits supporting the amended complaint.

Washington Shuttle shall have 45 days from the date of this order to show cause why the Commission should not assess a \$250 civil forfeiture, and/or suspend or revoke WMATC Certificate No. 369, for knowing and willful violations of WMATC Regulation No. 55-02.<sup>35</sup> If Washington Shuttle, Inc., desires to request an oral hearing on the allegation of violation of WMATC Regulation No. 55-02, it shall do so within 30 days of the date of this order. Any such request shall specify the grounds for holding a hearing, describe the evidence to be adduced, and explain why such evidence cannot be adduced without an oral hearing.

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<sup>30</sup> Declaration of Brock Meade.

<sup>31</sup> Declaration of Camille West-Eversley.

<sup>32</sup> Declaration of Josh Goldstein.

<sup>33</sup> Declaration of Sean Savett.

<sup>34</sup> Washington Shuttle has since replaced the hourly rates in its General Tariff No. GT-9 with flat fares in a new General Tariff No. GT-10, effective April 3, 2014. See *Carrier Information* at [www.wmatc.gov](http://www.wmatc.gov).

<sup>35</sup> See *In re Special People Transp., LLC*, No. MP-06-103, Order No. 10,683 at 4 (Aug. 8, 2007) (assessing \$250 forfeiture for tariff violation).



#### **D. WMATC Regulation No. 61**

The amended complaint alleges that Express of Arlington, VA, "has violated Section 61 of the Commission's Regulations by failing to have the proper markings on its vehicles, which are used to transport passengers under WMATC authority."<sup>36</sup>

WMATC Regulation No. 61 governs WMATC carrier vehicle markings. WMATC vehicle markings must confirm to Regulation No. 61-01, which provides as follows:

The following information must appear on both sides of each vehicle used to transport passengers under WMATC authority:

(a) the carrier's legal name or trade name appearing on the carrier's certificate of authority, or otherwise approved by the Commission for use in the Metropolitan District, preceded by the phrase "Operated By" if some other name also appears on the vehicle; and

(b) "WMATC" followed by either the carrier's certificate of authority number or, if applicable, the carrier's temporary authority or approval number

Under WMATC Regulation No. 61-06, the requirements of WMATC Regulation No. 61-01 are waived as to limousines and luxury sedans seating 9 persons or less, including the driver.

None of the four supporting affidavits discusses vehicle markings, and only one of the photographs attached to those affidavits offers a side view of the vehicle.<sup>37</sup> That photo clearly shows the word "Express" on the driver side of the vehicle, but the overall image size and resolution is insufficient to ascertain whether the words "Operated by Washington Shuttle" also appear. Thus we are unable to sustain the complaint on this allegation.<sup>38</sup>

Based on the foregoing, we find that the amended complaint does not state facts sufficient to warrant further investigation of the allegation of violation of Regulation No. 61.

#### **E. WMATC Regulation No. 63-01**

The amended complaint alleges that "[t]he websites of Veolia Transportation and ExecuCar each advertise ExecuCar's services to the

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<sup>36</sup> Amended Complaint at 11.

<sup>37</sup> See Declaration of Camille West-Eversley.

<sup>38</sup> Three of the four vehicles in question subsequently passed inspection by Commission staff in connection with a pre-complaint trade-name application filed with the Commission on September 12, 2013. The fourth vehicle has been withdrawn from service. See *In re Washington Shuttle Inc.*, No. AP-13-285, Order No. 14,211 (Sept. 16, 2013) (approving ExecuCar and Express trade names).

general public. Neither website, however, contains a statement advising the general public that ExecuCar is regulated by the Commission. (See <http://www.veoliatransportation.com/on-demand/execucar> and <http://www.execucar.com>).” The amended complaint then concludes that “ExecuCar has violated Section 63-01 of the Commission’s Regulations by advertising ExecuCar’s services to the general public without any statement advising the general public that ExecuCar is regulated by the Commission.”<sup>39</sup>

WMATC Regulation No. 63 governs carrier advertising. According to Regulation No. 63-01: “There shall be included in any advertising pamphlet, brochure or other exclusive publication of the carrier used as a medium for informing the general public of the carrier’s services, a statement advising the general public that the carrier is regulated by the Commission.”

The only carrier named a respondent in the amended complaint is Washington Shuttle, Inc., which as already noted operates under the ExecuCar trade name. There is no allegation in the amended complaint that either of the websites named in the amended complaint is “published” by Washington Shuttle, much less exclusively by Washington Shuttle. Indeed, it appears from information available in Networksolutions.com’s WHOIS database that “Veolia Transportation” owns the [veoliatransportation.com](http://www.veoliatransportation.com) website and that “SuperShuttle International” owns the [execucar.com](http://www.execucar.com) website. And as noted already, the ExecuCar trade name is used by other persons.<sup>40</sup>

We find that the alleged violation of WMATC Regulation No. 63-01 is without merit.

#### **F. WMATC Regulation No. 63-04**

The amended complaint alleges that

ExecuCar has violated Section 63-04 of the Commission’s Regulations by advertising or otherwise holding itself out to perform transportation within the Metropolitan District despite not being authorized by the Commission to provide such transportation, and by advertising or otherwise holding itself out to perform transportation within the Metropolitan District at rates that are not contained in an effective tariff approved by the Commission.<sup>41</sup>

Unlike WMATC Regulation No. 63-01, WMATC Regulation No. 63-04 does not contain an exclusivity component:

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<sup>39</sup> Amended Complaint at 11.

<sup>40</sup> See *supra*, n.5.

<sup>41</sup> Amended Complaint at 11.

No carrier regulated by the Commission or subject to such regulation shall advertise or hold itself out (a) to perform transportation or transportation-related services within the Metropolitan District unless such transportation or transportation-related services are authorized by the Commission; or (b) to perform transportation or transportation-related services within the Metropolitan District at rates, fares, or charges or subject to rules, regulations, and practices that pertain to rates, fares, and charges, unless said rates, fares, charges, rules, regulations, or practices are contained in an effective tariff approved by the Commission.

The Execucar.com website advertises sedan and SUV service, primarily to and from airports, that is available throughout the United States, as well as in Mexico and England. The website identifies 2605 S Clark St., Arlington, VA 22202, as the ExecuCar "office" location serving Reagan National and Dulles International Airports. The rates advertised on the ExecuCar website for service from the Gaylord National Resort and Conference Center to Dulles Airport are \$98.10 for up to four Prius passengers, \$99 for up to three sedan passengers, and \$125 for up to five SUV passengers. Washington Shuttle's General Tariff No. GT-10, on the other hand shows a single \$129 ExecuCar fare for transportation from the National Harbor to Dulles Airport.

Washington Shuttle shall have 45 days from the date of this order to align its ExecuCar website fares with the ExecuCar fares on file with WMATC in Washington Shuttle's General Tariff No. GT-10 or show cause why the Commission should not assess a \$250 civil forfeiture against Washington Shuttle, and/or suspend or revoke WMATC Certificate No. 369, for knowing and willful violations of WMATC Regulation No. 63-04.<sup>42</sup>

#### **IV. CONCLUSION**

Based on the foregoing, we find that the amended complaint states sufficient facts regarding the alleged violations of WMATC Regulation Nos. 55-02 and 63-04 to warrant further response from Washington Shuttle, provided that with respect to the violation of Regulation No. 55-02, complainants shall produce within 15 days the originals of the four affidavits submitted in support. We further find that the amended complaint fails to state facts warranting action with regard to the other alleged violations.

THEREFORE, IT IS ORDERED:

1. That the Motion For Leave to File First Amended Formal Complaint submitted November 20, 2013, is granted.

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<sup>42</sup> See *In re Zohery Tours Int'l, Inc.*, No. MP-02-46, Order No. 6911 at 5 (Nov. 18, 2002) (assessing \$250 forfeiture after unheeded warning to bring website into compliance with Regulation No. 63-04).

2. That the First Amended Formal Complaint filed November 20, 2013, is accepted.

3. That the Answer of Washington Shuttle, Inc., filed December 6, 2013, and incorporating the Response of Washington Shuttle, Inc., submitted October 23, 2013, is accepted.

4. That except to the extent otherwise indicated herein, the complaint is dismissed for failure to state facts warranting action.

5. That complainants shall have 15 days from the date of this order to produce the originals of the affidavits supporting the amended complaint.

6. That Washington Shuttle, Inc., shall have 30 days to request an oral hearing on the allegation of violation of WMATC Regulation No. 55-02. Any such request shall specify the grounds for holding a hearing, describe the evidence to be adduced, and explain why such evidence cannot be adduced without an oral hearing.

7. That in the event Washington Shuttle does not request a hearing on the allegation of violation of WMATC Regulation No. 55-02, Washington Shuttle shall have 45 days from the date of this order to show cause why the Commission should not assess a \$250 civil forfeiture, and/or suspend or revoke WMATC Certificate No. 369, for knowing and willful violations of WMATC Regulation No. 55-02.

8. That Washington Shuttle shall have 45 days from the date of this order to align its ExecuCar website fares with the ExecuCar fares on file with WMATC in Washington Shuttle's General Tariff No. GT-10 or show cause why the Commission should not assess a \$250 civil forfeiture against Washington Shuttle, and/or suspend or revoke WMATC Certificate No. 369, for knowing and willful violations of WMATC Regulation No. 63-04.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER, HOLCOMB, AND BROWN:

A handwritten signature in black ink, appearing to read 'W. S. Morrow, Jr.', is positioned above the printed name.

William S. Morrow, Jr.  
Executive Director